IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ Petition No. 8093 of 2004

Chikhali Shikshan Sanstha Chikhali..petr
vs
The State of Mah and ors...Respondents

Mr S.B.Deshmukh for Anil Anturkar for petitioner
Mr. V.P.Malvankar AGP for respondents

**CORAM: A.P.SHAH & S.C DHARMADHIKARI JJ.**

**Dated 29.l0.2004**

P.C:

Rule.

l. Respondents waive service. By consent, rule is made returnable forthwith.

2. Ptitioner is a society registered under the Societies Act. Ptitioner made an application for Academic Year 2004-05 for starting a new secondary school at Chikhali District Kolhapur on permanent no grant basis. In light of Government letter dated 25.6.2004 office of Dy Director of Education, Kolhapur Region, Kolhapur granted permission to the petitioner to start the school on permanent no grant basis with effect from June 2004 . Accordingly petitioner started the school and gave

admission to students to 8th std and also appointed staff. By letter dated 24.8.2004, however, respondent no. 2 Upper Secretary, Government of Maharashtra Government, Department of School Education informed the petitioner that the permission granted to start the new school has been stayed by the Government. The legality and validity of this order is impugned in this petition. Admittedly the impugned order has been passed without prior notice to the petitioner and no opportunity of hearing was given to the petitioner nor say of the petitioner was taken before passing the impugned order.

3. The learned AGP stated that the impugned order was passed by the State Govt in view of a complaint filed by the Vidyaprasarak Mandal which is running the existing secondary school at Chikhali complaining that as a result of granting of permission to start a new school, existing school will be adversely affected. The learned AGP stated that the complaint of the Vidya Prasarak Mandal will be referred to the State Level Committee for consideration and the State Government will take decision only after receipt of the report of the State Level Committee.

4. In light of the statement made by the learned AGP the impugned order dated 24.8.2004 is quashed and set aside. State Government is directed to refer the matter to the State Level Committee within two weeks from today. The State Level Committee shall grant opportunity of hearing to the petitioner as well as Vidya Prasarak Mandal and make appropriate recommendation to the State Government within 8 weeks. The State Government shall thereafter take appropriate decision within 4 weeks from the date of the receipt of the report from the State Level Committee.If the decision of the State Government is adverse to the petitioner,the same shall not be implemented for a period of 4 weeks from the date of its communication to the petitioner .

5. All contentions on merits are left open to the parties.

6. Rule is made absolute accordingly with no order as to costs.